IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.143 OF 1989

The State of Maharashtra ....Appellant.

V/s

1. Anil Narayan Patil,
age about 27 years.

2. Narayan Kondaji Patil,
age about 58 years.

3. Smt. Ashabai Narayan Patil
age about 50 years

Mr. D.P. Adsule, APP for the appellant - State.

Mr. C.R. Sonawane for respondent Nos. 1 to 3.

CORAM: V.M.KANADE,J.

DATE: 14th October, 2004.

ORAL JUDGMENT: (Per V.M. Kanade, J.)

1. Heard the learned APP appearing on behalf of the appellant - State and the learned Counsel appearing on behalf of the respondent Nos. 1 to 3.

2. Appellant - State is challenging the Judgment and Order passed by the Additional Sessions Judge, Thane in Sessions Case No.232 of 1984. By the said Judgment and Order the respondents - accused were acquitted of the offence with which they were charged under section 306 read with section 34 of the I.P.C. Appellant - State is challenging the said Judgment and Order by filing this appeal.

3. Prosecution's case in brief is that the respondents harassed deceased Ratan and, as a result, she committed suicide. Prosecution has examined the father - P.W.1, sister - P.W.2, brothers - P.W.3 and P.W.4 of the deceased. Father has stated in his evidence that he was an ex-MLA and the Vice Chairman of the Maharashtra Co-operative Federation Bombay. His daughter Ratan got married in the year 1982 with accused No.1. It is alleged that, after the engagement ceremony of his daughter Ratan with Anil, a demand of dowry was made at the time of marriage. It was stated he had given a gold neckless of 4 tolas. He has stated that some time in May 1983, he received a letter from his daughter in which she has stated that the accused had assaulted her and, as a result, her hand was fractured and, thereafter, his daughter had stayed with him for about 7 to 8 days in May 1983 and accused had, thereafter, taken her back. He has stated that, thereafter, he was informed that his daughter consumed poison and had died. Similar evidence has been given by P.W.2 - Smita who was younger sister of deceased Ratan. So far as P.W.3 -Chandrakant is concerned, certain letters which were written by the deceased were brought on record by the prosecution and the P.W.3 identified the hand writing

of his sister and both these letters were, therefore, exhibited at Exhibits-81 and 82. From the perusal of these two letters, it is evident that they are love letters written by Ratan to one school teacher expressing her love and affection and also her frustration as she could not get married with him. From the evidence of these witnesses, it is difficult to come to the conclusion that the accused was responsible for abetting her suicide as there is nothing on record to show that the accused was in any way responsible for taking her to the brink of committing suicide. On the contrary, the two letters which are brought on record clearly show the state of mind of the deceased. On the one hand, she was in love with another person and, on the other hand, there was frustration in her mind on account of not being in a position to get married to the person she loved.

So far as the allegation made by P.W.1, P.W.2 P.W.3 and P.W.4 regarding assault by the accused which resulted in fracture in the hand of the deceased is concerned, the said story also cannot be accepted. It has come on record that the accused immediately took her to the hospital, gave treatment and a suggestion has been made that the fracture was caused as a result of accident and because of the fall of the deceased Ratan from the motor-cycle. Even after the said

incident, the deceased had continued to stay with her husband. It is, therefore, difficult to accept the prosecution's case that, as a result of cruelty and ill-treatment at the hands of the accused, she has committed suicide. Over and above this fact, the charge which is levelled against the accused is under section 306 read with section 34 of the I.P.C. The provisions of section 498A were not incorporated in the Indian Penal Code at the time when the said offence was committed and, as a result, the charge under section 498A was not framed against the accused. Even though there is a presumption as raised under section 113-A and 113-B of the Evidence Act in respect of the offences against the married women which are committed within seven years of marriage yet, as long as the prosecution does not first establish that the offence has been proved, the provisions of section 113A and B would not be attracted.

4. In my view findings given by the Trial Court are not unreasonable or perverse. The findings are, therefore, confirmed. There is no reason to interfere with the order passed by the Sessions Court. Appeal is, accordingly, dismissed.

V.M. KANADE, J.